

CORPORATIONS
Title 32

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Art. 1446c-0

under Section 3.2532. When an application for a certificate of operating authority is presented to interested parties and, if notice of the hearing. Any person applying.

When applying for a certificate of operating authority, the applicant must include a statement showing how the applicant will deploy its facilities in its service area over a six-year period. A certificate of operating authority will be able to serve customers, except that a holder within 30 days of the date of a customer request to place "drop" facilities on the facilities in advance of customer request required by this subsection must meet the

be served with facilities other than the by the end of the first year;

be served with facilities other than the by the end of the third year; and with facilities other than the facilities of the by the sixth year.

A 40 percent of the applicant's service area has a company's facilities under the tariff is not, except that during the six years of a certificate of operating authority may extend its obligation to serve under the build-out plan it promises of one of its multi-premises certificated service area. The 40-percent change facilities resold by a holder of a provision of local exchange telephone service, as provided directly by the certificate of operating authority or purchased by an intermediate company and then provided to the certificate holder may an applicant use commercial mobile service under this section, but an applicant may use facilities provided by the Federal Communications Commission build-out requirement.

granted within 60 days after the date of the application by the commission of factors such as the applicant and the applicant's ability to meet the. The commission may extend the 60-day period of an incumbent local exchange company shall also consider:

1. If a public utility already serving the area and

provide service at reasonable rates; the provider of last resort; and an applicant to support more than one provider of

Under subsection (e) of this section, the commission shall not plan in determining whether to grant a certificate and temporarily waive compliance with good cause. The holder of a certificate shall demonstrate compliance with the plan approved has not more than 40 percent of the service area of the facilities of the incumbent local

(g) An application for a certificate of operating authority may be granted only for an area or areas that are contiguous and reasonably compact and cover an area of at least 27 square miles, except that:

(1) in an exchange in a county having a population of less than 500,000 that is served by an incumbent local exchange company having more than 31,000 access lines, an area covering less than 27 square miles may be approved if the area is contiguous and reasonably compact and has at least 20,000 access lines; and

(2) in an exchange of a company serving fewer than 31,000 access lines in this state, an application may be granted only for an area that has boundaries similar to the boundaries of the serving central office served by the incumbent local exchange company holding the certificate of convenience and necessity for that area.

(h) The commission may not, before September 1, 1998, grant a certificate of operating authority in an exchange of an incumbent local exchange company serving fewer than 31,000 access lines. The commission shall require that the applicant meet the other appropriate certification provisions of this Act.

(i) Six years after an application for a certificate of operating authority has been granted for a particular area or areas or when the new applicant has completed its build-out plan required by this section, the commission may waive the build-out requirements of this section for additional applicants. In addition, in service areas served by an incumbent local exchange company having more than one million access lines which, as of September 1, 1995, is subject to any prohibition under federal law on the provision of interLATA service, the build-out requirements of this section shall be eliminated in any service area where all prohibitions on that company's provision of interLATA services are removed such that the company can offer interLATA service together with its local and intraLATA toll service.

(j)(1) On an application filed after September 1, 1997, the commission may conduct a hearing to determine:

(A) if the build-out requirements of Subsections (c), (d), and (g) of this section have created barriers to the entry of facilities based local exchange telephone service competition in exchanges in counties with a population of more than 500,000 served by companies having more than 31,000 access lines; and

(B) the effect of the resale provisions on the development of competition except in certificated areas of companies serving fewer than 31,000 access lines as provided by Section 3.2532(d)(1) of this Act.

(2) In making the determination under Subdivision (1) of this subsection, the commission shall consider:

(A) the policy of this Act to encourage construction of local exchange networks;

(B) the number and type of competitors that have sought to provide local exchange competition under the existing rules prescribed by this Act; and

(C) whether, if new build-out and resale rules were adopted, innovative and competitive local exchange telephone services are more likely to be provided.

(3) If the commission determines that the existing build-out requirements have created barriers to facilities based local exchange competition in exchanges described by Subdivision (1)(A) of this subsection, the requirements of Subsections (c), (d), and (g) of this section and of Section 3.2532 may be changed if the changes will encourage additional facilities based competition. However, in no event may exchange sizes be reduced below 12 square miles, or the permitted resale percentage of Subsection (d) of this section be increased to more than 50 percent. If new rules are adopted, the rules may apply only to applicants for certificates filed after the date of adoption of those rules.

(k) If the holder of a certificate of authority fails to comply with any requirement imposed by this Act, the commission may:

(1) revoke the certificate; or

(2) impose administrative penalties or take other action under Subtitle I, Title I, of this Act.

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Service Provider Certificate of Operating Authority

Sec. 3.2532. (a) To encourage innovative, competitive, and entrepreneurial businesses to provide telecommunications services, the commission may grant service provider certificates of operating authority. An applicant must demonstrate that it has the financial and technical ability to provide its services and show that the services will meet the requirements of this section.

(b) A company is eligible to obtain a service provider certificate of operating authority under this section unless the company, together with affiliates, had in excess of six percent of the total intrastate switched access minutes of use as measured by the most recent 12-month period preceding the filing of the application for which data is available. The commission shall obtain from the incumbent local exchange telephone companies and from the applicant such information as is necessary to determine eligibility and shall certify such eligibility within 10 days of the filing of the application. A service provider certificate of operating authority shall be granted within 60 days after the date of the application on a nondiscriminatory basis after consideration by the commission of factors such as the technical and financial qualifications of the applicant and the applicant's ability to meet the commission's quality of service requirements. The commission may extend the 60-day period on good cause shown.

(c) An applicant for a service provider certificate of operating authority shall file with its application a description of the services it will provide and show the areas in which it will provide those services.

(d) A service provider certificate of operating authority holder:

(1) may obtain services under the resale tariffs ordered by the commission as specified by Section 3.453 of this Act, except in certificated areas of companies serving fewer than 31,000 access lines;

(2) may obtain for resale the monthly recurring flat rate local exchange telephone service and associated nonrecurring charges, including any mandatory extended area service, of an incumbent local exchange company at a five percent discount to the tariffed rate, and:

(A) the incumbent local exchange company shall also sell any feature service that may be provided to customers in conjunction with local exchange service, including toll restriction, call control options, tone dialing, custom calling services, and caller ID at a five percent discount to the tariffed rate, including any associated nonrecurring charge for those services, provided that the incumbent local exchange company shall make available to a holder of a service provider certificate of operating authority at an additional five percent discount any discounts made available to the customers of the incumbent local exchange company who are similarly situated to the customers of the holder of the service provider certificate of operating authority;

(B) service providers and incumbent local exchange companies may agree to rates lower than the tariffed rates or discounted rates;

(C) the five percent discounts provided by this subdivision do not apply in exchanges of companies having fewer than 31,000 access lines in this state;

(D) if the tariffed rates for the services being resold change, the changed rate is applicable to the resold service, but the commission may not, for holders of service provider certificates of operating authority, create a special class for purposes of resold services, and the discount provided to holders of service provider certificates of operating authority shall remain at five percent of the tariffed rate or discounted rate; and

(E) the holder of a service provider certificate of operating authority may purchase for resale optional extended area service and expanded local calling service but those services may not be discounted;

(3) may sell the flat rate local exchange telephone service only to the same class of customers to which the incumbent local exchange company sells that service;

(4) may not use a resold flat rate local exchange telephone service to avoid the rates, terms, and conditions of an incumbent local exchange company's tariffs;

(5) may not terminate both flat rate local exchange telephone service and services obtained under the resale tariff approved as prescribed by Sections 3.453(a)-(c) of this Act on the same end user customer's premises;

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(6) may not use resold flat rate local exchange telephone service to avoid the rates, terms, and conditions of an incumbent local exchange company's tariffs;

(7) may obtain services of convenience and necessity or certificate of public convenience and necessity;

(8) may obtain for resale service provided by the local exchange company;

(e) The holder of a certificate of public convenience and necessity shall not be granted the same territory. A holder of a certificate of public convenience and necessity for either a certificate of operating authority or a certificate of public convenience and necessity to the same territory must first obtain a certificate of operating authority.

(f) An incumbent local exchange company shall not provide a service to a holder of a service provider certificate of operating authority for "1+" intraLATA long distance telephone service.

(g) An incumbent local exchange company shall not:

(1) delay provisioning or maintenance of service;

(2) degrade the quality of service;

(3) impair the speed, quality, or reliability of service;

(4) fail to fully disclose in a timely manner information necessary for the holder to provision resale services; or

(5) refuse to take any reasonable steps to obtain a service provider certificate of operating authority from the local exchange company.

(h) In this section:

(1) "Affiliate" means any entity controlled by, or is under common control with, the holder of a service provider certificate of operating authority;

(2) "Control" means to exercise control over another.

Notice and Hearing

Sec. 3.254. (a) When an application is filed, the commission shall give notice to the applicant, and if requested, shall fix a time and place for a hearing. The applicant and any person interested in the application may appear at the hearing.

(b) The commission may grant a certificate of public convenience and necessity if it finds that the certificate is necessary in the public interest. The commission may grant a certificate of public convenience and necessity for the construction of a portion thereof or for the partial exercise thereof.

(c) Certificates of convenience and necessity shall be granted after consideration by the commission of the public interest, the effect of the certificate on any public utility of the state, and on any public utility of the state, factors as community values, environmental integrity, and the interests of consumers in such area resulting from the certificate.

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Operating Authority

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(6) may not use resold flat rate local exchange telephone services to provide access services to other interexchange carriers, cellular carriers, competitive access providers, or other retail telecommunications providers, but may permit customers to use resold local exchange telephone services to access interexchange carriers, cellular carriers, competitive access providers, or other retail telecommunications providers;

(7) may obtain services offered by or negotiated with a holder of a certificate of convenience and necessity or certificate of operating authority; and

(8) may obtain for resale single or multiple line flat rate intraLATA calling service when provided by the local exchange company at the tariffed rate for online digital communications.

(e) The holder of a certificate of operating authority or certificate of convenience and necessity shall not be granted a service provider certificate of operating authority as to the same territory. A holder of a service provider certificate of operating authority who applies for either a certificate of operating authority or a certificate of convenience and necessity as to the same territory must include a plan to relinquish its service provider certificate of operating authority.

(f) An incumbent local exchange company that sells flat rate local exchange telephone service to a holder of a service provider certificate of operating authority may retain all access service and "1+" intraLATA toll service originated over the resold flat rate local exchange telephone service.

(g) An incumbent local exchange company may not:

(1) delay provisioning or maintenance of services provided under this section;

(2) degrade the quality of access provided to another provider;

(3) impair the speed, quality, or efficiency of lines used by another provider;

(4) fail to fully disclose in a timely manner after a request for the disclosure all available information necessary for the holder of the service provider certificate of operating authority to provision resale services; or

(5) refuse to take any reasonable action to allow efficient access by a holder of a service provider certificate of operating authority to ordering, billing, or repair management systems of the local exchange company.

(h) In this section:

(1) "Affiliate" means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with a company that applies for a service provider certificate of operating authority under this section.

(2) "Control" means to exercise substantial influence over the policies and actions of another.

Notice and Hearing; Issuance or Refusal; Factors Considered

Sec. 3.254. (a) When an application for a certificate of public convenience and necessity is filed, the commission shall give notice of such application to interested parties and, if requested, shall fix a time and place for a hearing and give notice of the hearing. Any person interested in the application may intervene at the hearing.

(b) The commission may grant applications and issue certificates only if the commission finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public. The commission may issue the certificate as prayed for, refuse to issue it, or issue it for the construction of a portion only of the contemplated system or facility or extension thereof or for the partial exercise only of the right or privilege.

(c) Certificates of convenience and necessity shall be granted on a nondiscriminatory basis after consideration by the commission of the adequacy of existing service, the need for additional service, the effect of the granting of a certificate on the recipient of the certificate and on any public utility of the same kind already serving the proximate area, and on such factors as community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the probable improvement of service or lowering of cost to consumers in such area resulting from the granting of such certificate.

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Sec. 3.353. (a) T
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service:

- (9) switched access
- (10) interconnection
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be early identified and must be located or before the main listing of residential and required to exceed a length equivalent to two of type.

ne this section, including rules specifying on of agencies, services, and officials. The services, shall compile relevant information to shall provide the information to a telecomm- within a reasonable time after a request

representative's Names

an affiliate of that utility that publishes a s distributed to the public shall publish the o represents all or part of the geographical

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ak available, at a reasonable tariffed rate, ex dited metropolitan service lines. The or, extended metropolitan service in order e service to extended metropolitan service.

IC OF TELECOMMUNICATIONS

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bt), an incumbent local exchange company ny's election to be regulated under this ommitment to limit any increase in the rates included in Section 3.353 of this Act and its on 358 of this Act.

local exchange company electing incentive ny") shall be initially classified into three

re assify a service from Basket I to Basket II, nsistent with the criteria prescribed by

ns services shall be regulated under this "d inant carrier" as that term is defined by

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(d) If, subsequent to the enactment of this subtitle, an incumbent local exchange company notifies the commission in writing of its election to incentive regulation under this subtitle, the company may not under any circumstances be subject to any complaint, hearing, or determination as to the reasonableness of its rates, its overall revenues, its return on invested capital, or its net income. However, the company's implementation and enforcement of the competitive safeguards required by Subtitle J of this title are not excluded from a complaint, hearing, or determination. Nothing herein restricts any consumer's right to complain to the commission regarding quality of service, the commission's right to enforce quality of service standards, or the consumer's right to complain regarding the application of an ambiguous tariff, and if the commission finds an ambiguity, the commission's right to determine the proper application of the tariff or to determine the proper rate if the tariff is found to not apply, but this does not permit the commission to lower a tariff rate except as specifically provided by this Act, to change its interpretation of a tariff, or to change a tariff so as to extend its application to new classes of customers. Notwithstanding any other provision of this Act, the commission may not reduce the rates for switched access services for any company electing under this subtitle before the expiration of the cap on basic network services.

Basket I: Basic Network Services

Sec. 3.353. (a) The following services shall initially be classified as basic network services in Basket I as of September 1, 1995:

- (1) flat rate residential and business local exchange telephone service, including primary directory listings and the receipt of a directory and any applicable mileage or zone charges;
- (2) tone dialing service;
- (3) lifeline and tel-assistance services;
- (4) service connection charges for basic services;
- (5) direct inward dialing service for basic services;
- (6) private pay telephone access service;
- (7) call trap and trace service;
- (8) access to 911 service where provided by a local authority and access to dual party relay service;
- (9) switched access service;
- (10) interconnection to competitive providers;
- (11) mandatory extended area service arrangements;
- (12) mandatory extended metropolitan service or other mandatory toll-free calling arrangements;
- (13) interconnection for commercial mobile service providers;
- (14) directory assistance; and
- (15) 1+ intraLATA message toll service.

(b) On an incumbent local exchange company's election under Section 3.352 of this Act, increases in rates for basic network services are permitted only with commission approval and only within the parameters specified by Subsection (c) of this section for four years following the election. Notwithstanding the requirements prescribed by Section 3.457 of this Act, rates for basic network services may be decreased at any time on the initiative of the electing company to a floor above long run incremental cost for switched access service or the appropriate cost for any basic local telecommunications service, which shall be long run incremental cost as to any incumbent local exchange company that is required by the commission to perform long run incremental cost studies or elects to perform those studies. This section does not affect the charges permitted under Section 3.304, 3.308, or 3.608 of this Act. The commission may not increase service standards applicable to the provision of local exchange telephone service by an electing company if the increased investment required to comply with the increased standard exceeds in any one year 10 percent of the incumbent local exchange company's average annual intrastate additions in capital investment for the most recent five-year period. In calculating the average, the incumbent local exchange company shall exclude extraordinary investments made during that five-year period.

ATTACHMENT 17

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: *5/22/97*

A Bill

ACT 77 of 1997

SENATE BILL 54

5 By: Senators Hopkins, Argue, Bearden, Bell, Canada, Dowd, Edwards, Everett, Fitch, Gordon, Gwamey,
6 Harriman, Hill, Hoofman, Hunter, Jeffries, *Kennedy*, Lewellen, Mahony, Malone, Roebuck, Ross, Smith,
7 Todd, Walker, Walters, Webb, and Wilson
8

9 By: Representatives Wagner, Beatty, Thicksten, Capps, Cunningham, Young, Lavery, Purdom, Newman,
10 George, Maddox, Brown, Miller, Fletcher, McKissack, McGee, Malone, Pollan, McGehee, Wilkinson,
11 Willems, Johnson, Rorie, Simon, Broadway, Kidd, Lancaster, Sheppard, Stalnaker, Jones, Bennett, Choate,
12 Davis, Baker, Wood, Northcutt, Simmons, Allison, Flanagan, Horn, Whorton, Cook, Hausam, Jeffress, Hall,
13 Wren, Goodwin, Critcher, McJunkin, Hunton, Harris, French, Joe Hudson, Wallis, Teague, Bond, Shoffner,
14 Ammons, Milum, Booker, Pappas, Walker, Courtway, Roberts, Rodgers, Angel, and Curran
15
16

For An Act To Be Entitled

"TELECOMMUNICATIONS REGULATORY REFORM ACT OF 1997."

Subtitle

"TELECOMMUNICATIONS REGULATORY REFORM
ACT OF 1997."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Title.

This act may be referred to and cited as the "Telecommunications
Regulatory Reform Act of 1997".

SECTION 2. Legislative Findings.

It is the intent of the General Assembly in enacting this Act to:

(1) Provide for a system of regulation of telecommunications services,
consistent with the Federal Act, that assists in implementing the national
policy of opening the telecommunications market to competition on fair and
equal terms, modifies outdated regulation, eliminates unnecessary regulation,
and preserves and advances universal service.

As Engrossed: 5/22/97

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1 (2) Recognize that a telecommunications provider that serves high cost
2 rural areas or exchanges faces unique circumstances that require special
3 consideration and funding to assist in preserving and promoting universal
4 service.

5 (3) Recognize differences between the small and large incumbent local
6 exchange carriers, that there are customer-owned telephone cooperatives and
7 small locally-owned investor companies, and that it is appropriate to provide
8 incentives and regulatory flexibility to allow incumbent local exchange
9 carriers that serve the rural areas to provide existing services and to
10 introduce new technology and new services in a prompt, efficient and
11 economical manner. The General Assembly finds that the Commission, when
12 promulgating rules and regulations, should take into consideration the
13 differences in operating conditions in the large and small incumbent local
14 exchange carriers and the burdens placed on small carriers because of
15 regulation.

16
17 SECTION 3. Definitions.

18 As used in this Act:

19 (1) "Access line" means communications facility extending from a
20 customer's premises to a serving central office comprising a subscriber line
21 and, if necessary, a trunk facility.

22 (2) "Affiliate" means any entity that, directly or indirectly, owns or
23 controls, is owned or controlled by, or which is under common ownership or
24 control with, another entity. Owns or controls, for the purpose of this
25 definition means holding at least a majority of the outstanding voting power.

26 (3) "Arkansas IntralATA Toll Pool" means the unincorporated organization
27 of the Arkansas incumbent local exchange carriers, approved by the Commission,
28 whose purpose is to redistribute the pooled revenues from intralATA toll
29 telephone service.

30 (4) "Arkansas Intrastate Carrier Common Line Pool" means the
31 unincorporated organization of the providers of Arkansas telecommunications
32 services, authorized by the Commission, whose purpose is to manage billing,
33 collection, and distribution of the incumbent local exchange carrier's intrastate
34 toll common line service revenue requirements.

35 (5) "Basic local exchange service" means the service provided to the
36 premises of residential or business customers composed of the following:

President of the Senate

As Engrossed: 5/12/97

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- 1 (a) voice grade access to the public switched network, with
2 ability to place and receive calls.
- 3 (b) touch tone service availability.
- 4 (c) flat rate residential local service and business local
5 service.
- 6 (d) access to emergency services (911/E911) where provided by
7 local authorities.
- 8 (e) access to basic operator services.
- 9 (f) a standard white page directory listing.
- 10 (g) access to basic local directory assistance.
- 11 (h) access to long distance toll service providers, and
12 (i) the minimum service quality as established and required by
13 the Commission on the effective date of this Act.
- 14 (6) "Commercial mobile service" means cellular, Personal
15 Communications Systems and any service regulated pursuant to Part 20 of the
16 rules and regulations of the FCC (47 CFR Part 20) or any successor provisions.
- 17 (7) "Commission" means the Arkansas Public Service Commission.
- 18 (8) "Competing local exchange carrier" or "CLEC" means a local exchange
19 carrier that is not an incumbent local exchange carrier.
- 20 (9) "Electing company" means a local exchange carrier that elects to be
21 regulated pursuant to Sections 6 through Section 8 of this Act.
- 22 (10) "Eligible telecommunications carrier" means the local exchange
23 carrier determined in accordance with Section 5 .
- 24 (11) "Embedded investment" means the amount of investment in telephone
25 plant that has already been made by an incumbent local exchange carrier as of
26 the effective date of this act.
- 27 (12) "FCC" means the Federal Communications Commission.
- 28 (13) "Facilities" means any of the physical elements of the telephone
29 plant that are needed to provide or support telecommunications services,
30 including switching systems, cables, fiber optic, and microwave radio
31 transmission systems, measuring equipment, billing equipment, operating
32 systems, billing systems, ordering systems, and all other equipment and
33 systems that a telecommunications service provider uses to provide or support
34 telecommunications services.
- 35 (14) "Federal act" means the Communications Act of 1934, as amended.
- 36 (15) "Government entity" includes all Arkansas state agencies.

President of Senate

Bobby L. Hogue
Senator

As Engrossed: 51/22/97

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1 commissions, boards, authorities, and all Arkansas public educational entities
2 (including school districts), and political subdivisions (including
3 incorporated cities and towns and all institutions, agencies or
4 instrumentalities of municipalities) and county governments.

5 (16) "Incumbent local exchange carrier" means, with respect to a local
6 exchange area, a local exchange carrier, including successors and assigns,
7 that is certified by the Commission and was providing basic local exchange
8 service on February 8, 1996.

9 (17) "Interstate access charge pools" means the system, currently
10 administered by the National Exchange Carriers Association, wherein
11 participating local exchange carriers pool billed interstate access revenues.

12 (18) "Local exchange area" means the geographic area, approved by the
13 Commission, encompassing the area within which a local exchange carrier is
14 authorized to provide basic local exchange services and switched access
15 services.

16 (19) "Local exchange carrier" means a telecommunications provider of
17 basic local exchange service and switched access services. Such term does not
18 include commercial mobile service providers.

19 (20) "Network element" means a facility or equipment used in the
20 provision of a telecommunications service. Such term also includes features,
21 functions, and capabilities that are provided by means of such facility or
22 equipment, including subscriber numbers, databases, signaling systems, and
23 information sufficient for billing and collection or used in the transmission,
24 routing, or other provision of a telecommunications service.

25 (21) "Resale" means the purchase of services by one local exchange
26 carrier from another local exchange carrier for the purpose of reselling those
27 services directly or indirectly to an end-user customer.

28 (22) "Rural telephone company" means a local exchange carrier defined as
29 a rural telephone company in the Federal Act as of the effective date of this
30 act.

31 (23) "Switched access service" means the provision of communications
32 between a customer premise and an interexchange carrier's point of
33 interconnection with a local exchange carrier's network for the completion of
34 end user calls to the public switched network for the origination or
35 termination of interexchange long distance traffic.

36 (24) "Telecommunications provider" means any person, firm, partnership,

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1 corporation, association, or other entity that offers telecommunications
2 services to the public for compensation.

3 (25) "Telecommunications services" means the offering to the public for
4 compensation the transmission of voice, data, or other electronic information
5 at any frequency over any part of the electromagnetic spectrum,
6 notwithstanding any other use of the associated facilities. Such term does
7 not include radio and television broadcast or distribution services, or the
8 provision or publishing of yellow pages, regardless of the entity providing
9 such services, or services to the extent that such services are used in
10 connection with the operation of an electric utility system owned by a
11 government entity.

12 (26) "Tier One Company" means any incumbent local exchange carrier
13 that, together with its Arkansas affiliates that are also incumbent local
14 exchange carriers, provides basic local exchange services to greater than one
15 hundred fifty thousand (150,000) access lines in the State of Arkansas on the
16 effective date of this Act. Changes in designation of an incumbent local
17 exchange carrier, or portions thereof, as a Tier One Company or non-Tier One
18 Company may be effected by prior approval from the Commission pursuant to
19 Section 11(i).

20 (27) "Universal service" means those telecommunications services that
21 are defined and listed in the definition of basic local exchange service until
22 changed by the Commission pursuant to Section 4(e)(3) of this Act.

23
24 **SECTION 4. Preservation and Promotion of Universal Service.**

25 (a) The Arkansas Universal Service Fund (AUSF) is established by this
26 Section in order to promote and assure the availability of universal service
27 at rates that are reasonable and affordable, and to provide for reasonably
28 comparable services and rates between rural and urban areas. The AUSF will
29 provide funding to eligible telecommunications carriers that provide basic
30 local exchange services over facilities owned by the eligible
31 telecommunications carrier. The AUSF shall be designed to provide
32 predictable, sufficient, and sustainable funding to eligible
33 telecommunications carriers serving rural or high cost areas of the State.

34 (b) The Arkansas Universal Service Fund is to provide a mechanism to
35 restructure the present system of telecommunication service rates in the State
36 as provided herein, and all telecommunications providers, except as prohibited

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1 by federal law, shall be charged for the direct and indirect value inherent in
2 the obtaining and preserving of reasonable and comparable access to
3 telecommunications services in the rural or high cost areas. The value and
4 utility of access to and interconnection with the public switched network will
5 be lessened if the rural or high cost areas do not have comparable access and
6 subscriberhip. This AUSF charge for all telecommunications providers shall
7 be proportionate to each provider's Arkansas intrastate retail
8 telecommunications service revenues. In that the customers of the
9 telecommunications providers that would pay the AUSF charge receive the
10 benefits of a universal network, such telecommunications providers may
11 surcharge their customers to recover such AUSF charges paid by the
12 telecommunications provider. Therefore, the AUSF charge is not a tax, and is
13 not affected by state laws governing taxation.

14 (c) The Commission shall delegate to a trustee (the "administrator") the
15 administration, collection, and distribution of the AUSF in accordance with
16 the rules and procedures established by the Commission and consistent with
17 this Act. The administrator shall enforce and implement all rules and
18 directives governing the funding, collection, and eligibility for the AUSF.
19 Within sixty days after receipt of a request for AUSF funds, the administrator
20 shall review and determine the accuracy and appropriateness of the request and
21 advise the entity requesting such funds of his determination. The affected
22 parties shall have thirty days to request reconsideration by the Commission of
23 the administrator's determination and the Commission shall after notice and
24 hearing, if requested, issue its opinion on the reconsideration within thirty
25 days after the request of reconsideration. Persons aggrieved by the
26 Commission's opinion shall have the right to appeal such opinion in accordance
27 with law.

28 (d) The AUSF administrator shall periodically establish and notify each
29 telecommunications provider of the AUSF charge levels required to be paid by
30 the telecommunications provider. Any telecommunications provider that fails,
31 without just cause, to pay the AUSF charge that is due and payable pursuant to
32 this section shall, after notice and opportunity for hearing, have its
33 authority to do business as a telecommunications provider in the State of
34 Arkansas revoked by the Commission. The AUSF charge shall not be subject to
35 any state or local tax or franchise fees. The Commission is authorized to
36 increase the AUSF charge by those amounts necessary to recover the cost of

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1 administration of the AUSF.

2 (a) The Commission shall, after reasonable notice and hearing,
3 establish rules and procedures necessary to implement the AUSF. The
4 Commission shall implement the AUSF and make AUSF funds available to eligible
5 telecommunications carriers no later than 90 days following the later of (i)
6 the effective date of this Act, or (ii) the effective date of an FCC order
7 pursuant to Section 254 of the Federal Act (47 USC 254), that approves,
8 establishes or modifies interstate universal service funding. The Commission
9 shall not, prior to the implementation and availability of funds from the
10 AUSF, require any local exchange carrier to reduce rates for intrastate
11 switched access services or require any local exchange carrier to reduce its
12 net revenue received from the Arkansas IntraLATA Toll Pool (AITP). In
13 establishing and implementing the AUSF, the Commission shall adhere to the
14 following instructions and guidelines:

15 (1) AUSF funding shall be provided directly to eligible
16 telecommunications carriers.

17 (2) The Commission may, after reasonable notice and hearing,
18 revise the list of universal services, identified in Section 3 of this Act,
19 that may be supported by the AUSF to establish and maintain end user rates for
20 universal services that are reasonably comparable between urban and rural
21 areas, or to reflect changes in the type and quality of telecommunications
22 services considered essential by the public, as evidenced, for example, by
23 those telecommunication services that are purchased and used by a majority of
24 single line urban customers. The Commission shall determine and approve AUSF
25 funding to eligible telecommunications carriers to recover the cost of
26 additions or revisions to the universal service list concurrent with any such
27 revisions to the list of universal services identified in Section 3 of this
28 Act.

29 (3) If the Commission establishes or utilizes a minimum or
30 threshold universal service rate (threshold rate), for the purpose of
31 determining the amount of AUSF that an eligible telecommunications carrier may
32 receive, the Commission shall adhere to the following requirements:

33 (A) A rate case proceeding or earnings investigation or analysis
34 shall not be required or conducted in connection with the determination or
35 implementation of increases in universal service rates associated with
36 Commission use of a threshold rate, and the increases shall not be included in

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1 the calculation of the basic local exchange service rate increase limits
2 specified in Section 7 and Section 12.

3 (B) The Commission may not require a reduction in universal
4 service rates to a threshold rate unless any associated decrease in revenues
5 are allowed to be concurrently recovered from the AUSF.

6 (4)(A) In the event of an FCC order, rule or policy, pursuant to
7 Section 254(a)(2) of the Federal Act, (47 USC 254(a)(2)) the effect of which
8 is to change the federal universal service fund revenues of an incumbent local
9 exchange carrier, the Commission shall either increase the rates for basic
10 local exchange service or increase the incumbent local exchange carrier's
11 recovery from the AUSF or a combination thereof to replace the reasonably
12 projected change in revenues. In determining whether to increase basic local
13 exchange service rates or increase AUSF for a Tier One Company pursuant to
14 this Section, the Commission shall take into account that company's rates and
15 consider whether such rates are below the statewide average.

16 (B) Any rural telephone company, excluding Tier One Companies,
17 that, as a result of changes caused by new or existing federal or state
18 regulatory or statutory directives, experiences a change in intrastate or
19 interstate switched access services revenues, or in net revenue received from
20 the intrastate Carrier Common Line Pool, interstate access charge pools, or
21 the Arkansas IntraLATA Toll Pool, shall be allowed to recover such reductions
22 from the AUSF or through modifications in rates applicable to basic local
23 exchange service. The recovered amounts shall be limited to the net reduction
24 in revenues from all sources of support listed in paragraphs (e)(4)(A) and
25 (e)(4)(B) of this Section.

26 (C) In connection with the receipt of AUSF funds for these
27 changes referred to in paragraph (e)(4)(A) or (e)(4)(B) of this Section, such
28 shall not be conditioned upon any rate case or earnings investigation by the
29 Commission. The AUSF administrator shall verify the calculations and accuracy
30 of the net revenue reductions, based on a comparison between (i) the total
31 annual revenues received from these sources by the eligible telecommunications
32 carrier during the most recent twelve months preceding the required regulatory
33 or statutory changes, and (ii) a reasonable projection of total test year
34 annual revenue after such changes are implemented.

35 (D) Except as provided in this paragraph, the intrastate Carrier
36 Common Line (CCL) Pool charges shall continue as effective on December 31,

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1 1996. The Commission is authorized to develop and implement, commencing three
2 (3) years after the effective date of this Act, a phase-in reduction of
3 intrastate CCL pool charges until such charges are equivalent to the
4 interstate CCL charges. Any reduction of intrastate CCL pool charges of
5 incumbent local exchange carriers ordered by the Commission shall provide for
6 concurrent recovery of such revenue loss from the AUSF, basic local exchange
7 rates, or a combination thereof.

8 (5) All eligible telecommunications carriers may request high
9 cost funding from the AUSF as necessary in the future to maintain rates for
10 universal services that are reasonable, affordable, and comparable between
11 urban and rural areas. Except as otherwise provided in this Act, such funding
12 shall be based on all net investment, including embedded investment, and
13 expenses incurred by the eligible telecommunications carriers in the provision
14 of universal service. High cost funding shall be provided to eligible
15 telecommunications carriers as needed for the following: (A) investments and
16 expenses required to provide, maintain, and support universal services (B)
17 infrastructure expenditures in response to facility or service requirements
18 established by any legislative, regulatory, judicial authority, or
19 governmental entity, and (C) for other purposes deemed necessary by the
20 Commission to preserve and advance the public education and welfare.

21 (6) In identifying and measuring the costs of providing universal
22 services, exclusively for the purpose of determining high cost funding levels
23 under paragraph (e)(6) of this Section, eligible telecommunications carriers
24 shall have the following options:

25 (A) The eligible telecommunications carrier may utilize
26 traditional rate case methods and procedures to identify universal service
27 revenue requirements and a residual AUSF funding requirement;

28 (B) The eligible telecommunications carrier may identify high cost
29 areas within its local exchange area, such area being no smaller than a single
30 exchange or wire center, and perform a fully distributed allocation of cost
31 and identification of associated revenue in order to quantify funding needs
32 for such areas; or

33 (C) The Commission shall adopt reasonable cost proxies that may
34 be used by an eligible telecommunications carrier for this purpose.

35 (7) In calculating revenue requirements only for the purpose of
36 establishing high cost funding needs from the AUSF the Commission shall not

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1 fix depreciation rates; however, the Commission may make reasonable
 2 adjustments to depreciation expense if an eligible telecommunications
 3 carrier's composite depreciation annual accrual rate is greater than the
 4 weighted average of composite rates for similar plant and equipment of all
 5 other telecommunications providers providing comparable services in the State.
 6 In such case, the Commission may adjust depreciation expenses of the eligible
 7 telecommunications carrier to levels that would not exceed 15% above a
 8 composite accrual rate comparable to the statewide weighted average.

9 (f) On or within thirty days following the fifth anniversary of the
 10 effective date of this Act, the Commission and the AUSF administrator shall
 11 complete and deliver a report on the status and performance of the AUSF to the
 12 Legislative Council.

13 (g) The current Arkansas Universal Telephone Service Fund established
 14 pursuant to Arkansas Code Annotated Sections 23-17-301 through 23-17-307 will
 15 continue to exist until the AUSF is funded and operational. At that time any
 16 funds remaining in the current fund will be transferred to the AUSF and the
 17 current fund will no longer be operational.

18
 19 SECTION 5. Eligible Telecommunications Carrier.

20 (a) The incumbent local exchange carrier, its successors and assigns,
 21 which owns, maintains, and provides facilities for universal service within a
 22 local exchange area upon the effective date of this Act, shall be the eligible
 23 telecommunications carrier within such local exchange area.

24 (b) Where the incumbent local exchange carrier receives AUSF support,
 25 except in areas served by rural telephone companies, the Commission,
 26 consistent with Section 214(a)(2) of the Federal Act (47 USC 214(e)(2)), after
 27 reasonable notice and hearing, may designate other telecommunications
 28 providers to be eligible for high cost support pursuant to Section 4 under the
 29 following conditions:

30 (1) The other telecommunications provider accepts the responsibility
 31 to provide service to all customers in an incumbent local exchange carrier's
 32 local exchange area using its own facilities or a combination of its own
 33 facilities and resale of another carrier's services. High cost support under
 34 this Section will not begin until the telecommunications provider has
 35 facilities in place and offers to serve all customers in its service area;

36 (2) The telecommunications provider may only receive funding for the

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1 portion of its facilities that it owns and maintains;

2 (3) The telecommunications provider will not receive AUSF funding at a
3 level higher than the level of funding received by the incumbent local
4 exchange carrier in the same area;

5 (4) The telecommunications provider advertises the availability and
6 the charges of such services, using media of general distribution; and

7 (5) It is determined by the Commission that the designation is in the
8 public interest.

9 (c) In exchanges or wire centers where the Commission has designated
10 more than one eligible telecommunications carrier, the Commission shall permit
11 a local exchange carrier to relinquish its designation as an eligible
12 telecommunications carrier, consistent with Section 214(e)(4) of the Federal
13 Act (47 USC 214(e)(4)), upon a finding that at least one eligible
14 telecommunications carrier will continue to serve the area.

15 (d) For the entire area served by a rural telephone company, excluding
16 Tier One Companies, for the purpose of the AUSF and the federal universal
17 service fund, there shall be only one eligible telecommunications carrier
18 which shall be the incumbent local exchange carrier that is a rural telephone
19 company. The rural telephone company may elect to waive its right to be the
20 only eligible telecommunications carrier within the local exchange area by
21 filing notice with the Commission. If there is more than one eligible
22 telecommunications carrier, an eligible telecommunications carrier may
23 petition the Commission and be granted relief from designation as an eligible
24 telecommunications carrier.

25 (e) An eligible telecommunications carrier may use commercial mobile
26 services to provide universal services.

27
28 SECTION 6. Electing Companies.

29 (a) Any incumbent local exchange carrier may elect to have the rates,
30 terms, and conditions for its telecommunications services determined pursuant
31 to the provisions of this Section.

32 (b) An incumbent local exchange carrier shall file a notice of its
33 intent with the Commission to be an electing company and to be regulated
34 pursuant to Sections 6 through Section 8.

35 (c) Upon such a filing, all rates, terms, and conditions for the
36 services provided by that incumbent local exchange carrier contained in the

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1 tariffs and end-user contracts that were in effect on the date twelve months
 2 prior to the date of election under this Section shall be deemed just and
 3 reasonable. However, nothing herein shall restrict any customer's right to
 4 complain to the Commission regarding quality of service or the Commission's
 5 right to enforce any quality of service rules and standards which are equally
 6 imposed on all telecommunications providers.

7 (d) A rural telephone company, excluding Tier One Companies, which
 8 elects to be regulated pursuant to this Section may terminate that election by
 9 filing a notice with the Commission. Upon terminating that election, the
 10 rural telephone company may not thereafter, for a period of five years from
 11 date of the termination notice under this paragraph, elect to be regulated
 12 under this Section.

13
 14 SECTION 7. Regulation of Rates for Basic Local Exchange Service and
 15 Switched Access Service of Electing Companies.

16 (a) The rates for basic local exchange service and switched access
 17 services that were in effect in the date twelve months prior to the date of
 18 filing of a notice of election by a local exchange carrier pursuant to Section
 19 6 shall be the maximum that such electing local exchange carrier may charge
 20 for such services for a period of three years after the date of filing,
 21 excluding rate increases ordered by the Commission pursuant to Section 4. An
 22 electing company may decrease or, subsequent to a decrease, increase up to the
 23 rate that was effective at the time of election pursuant to this Section. Such
 24 rate changes shall be effective immediately, without Commission approval, by
 25 filing a tariff or notice with the Commission.

26 (b) After the expiration of such three year period, the rates for basic
 27 local exchange services and switched access services, excluding the intrastate
 28 carrier common line charge, may be adjusted by the electing company filing a
 29 price list with the Commission, as long as such rates remain at or below the
 30 inflation-based rate cap. Inflation shall be measured by the year-over-year
 31 percent change in the gross domestic product price index (GDP-PI) calculated
 32 by the U.S. Department of Commerce, or any successor to such index. The
 33 electing company is authorized to adjust the rate cap for each basic local
 34 exchange service and switched access service by seventy-five percent of this
 35 inflation measure, adjusted for exogenous changes specified in paragraph (e)
 36 of this Section, and excluding rate increases ordered by the Commission

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1 pursuant to Section 4. The rate cap may only be adjusted once each twelve
2 months beginning at the expiration of the three year period after the date of
3 initial filing to be regulated pursuant to Sections 6 through 8.

4 (c) As long as an electing company is in compliance with paragraphs (a)
5 and (b) of this Section, such rates are deemed just and reasonable.

6 (d) Notwithstanding the provisions of this Section, if, at any time
7 following the three year anniversary of the date of election pursuant to this
8 Section, another telecommunications provider is providing basic local exchange
9 service or switched access service within an electing company's local exchange
10 area, the electing company may, within any exchange of the electing company in
11 which another telecommunications provider is providing these services,
12 commence determining its rates for basic local exchange service and switched
13 access services in the same manner that it determines its rates for services
14 other than basic local exchange service and switched access service, pursuant
15 to Section 8(c).

16 (e) For purposes of this Section, the term exogenous change shall mean a
17 cumulative impact on a local exchange carrier's intrastate regulated revenue,
18 expenses or investment of more than three percent over a twelve month period,
19 that is attributable to changes in federal, state, or local government
20 mandates, rules, regulations or statutes.

21
22 SECTION 8. Regulatory Framework for Electing Companies.

23 (a) The earnings of an electing company shall not be subject to rate of
24 return or rate base monitoring or regulation, and the Commission shall not
25 consider rate of return, rate base, or the earnings of an electing company in
26 connection with rate changes made pursuant to this Section or Section 7.

27 (b) An electing company is authorized to determine and account for its
28 investments, revenues and expenses, including depreciation expenses, pursuant
29 to generally accepted accounting principles.

30 (c) An electing company may increase or decrease its rates for
31 telecommunications services other than basic local exchange service and
32 switched access services and establish rates for new services by filing a
33 tariff or a price list with the Commission. Such rates shall not require
34 Commission approval. The tariff or price list shall be effective upon filing
35 or at such future time as the electing company shall designate. So long as
36 rates for services are in accordance with this Section and Section 7, such

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1 rates are deemed just and reasonable. Any service that is not a
2 telecommunications service is not subject to Commission regulation, and rates
3 for such services need not be filed with the Commission.

4 (d) An electing company may package any of its services with any other
5 service it or its affiliates offer, with or without a discount, provided that
6 services whose rates are capped under Section 7 may be purchased separately at
7 the rate which is capped in accordance with that Section.

8

9 SECTION 9. Authorization of Competing Local Exchange Carriers.

10 (a) Consistent with the Federal Act and the provisions of Section 10,
11 the Commission is authorized to grant certificates of convenience and
12 necessity to telecommunications providers authorizing them to provide basic
13 local exchange service and/or switched access service to an incumbent local
14 exchange carrier's local exchange area if and to the extent that such
15 applications otherwise comply with state law, designate the geographic areas
16 proposed to be served by such applicants, and the applicants demonstrate they
17 possess the financial, technical and managerial capacity to provide such
18 competing services. Competing local exchange carriers shall be required to
19 maintain a current tariff or price list with the Commission, and to make
20 prices and terms of service available for public inspection. Retail prices of
21 competing local exchange carriers shall not require prior review or approval
22 by the Commission.

23 (b) A government entity may not provide, directly or indirectly, basic
24 local exchange service. After reasonable notice to the public and public
25 hearing, a government entity owning an electric utility system or television
26 signal distribution system may make any telecommunications capacity or
27 associated facilities which it now owns, or may hereafter acquire, available
28 to the public upon such terms and conditions as may be established by its
29 governing authority, except such government entity may not use such
30 telecommunications capacity or facilities to provide, directly or indirectly,
31 basic local exchange service. Any restriction contained in this paragraph
32 shall not be applicable to the provision of telecommunications services or
33 facilities to the extent used solely for 911, E911, other emergency services,
34 educational or medical purposes, or for the provision of telecommunications
35 services or facilities by an educational institution to its students.

36 (c) A government entity which operates an electric utility system may

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1 deny any telecommunications provider access to its electric utility poles,
2 ducts, conduits, or rights-of-way, on a nondiscriminatory basis where there is
3 insufficient capacity and for reasons of safety, reliability, and generally
4 applicable engineering purposes.

5 (d) Except to the extent required by the Federal Act and this Act, the
6 Commission shall not require an incumbent local exchange carrier to negotiate
7 resale of its retail telecommunications services, to provide interconnection,
8 or to sell unbundled network elements to a competing local exchange carrier
9 for the purpose of allowing such competing local exchange carrier to compete
10 with the incumbent local exchange carrier in the provision of basic local
11 exchange service. Promotional prices, service packages, trial offerings, or
12 temporary discounts offered by the local exchange carrier to its end-user
13 customers are not required to be available for resale.

14 (e) The prices for unbundled network elements shall include the actual
15 costs, including an allocation of joint and common costs and a reasonable
16 profit.

17 (f) As provided in Sections 251 and 252 of the Federal Act (47 USC 251
18 and 252), the Commission's authority with respect to interconnection, resale,
19 and unbundling is limited to the terms, conditions and agreements pursuant to
20 which an incumbent local exchange carrier will provide interconnection,
21 resale, or unbundling to a CLEC for the purpose of the CLEC competing with the
22 incumbent local exchange carrier in the provision of telecommunications
23 services to end-user customers.

24 (g) The Commission shall approve, as permitted by the Federal Act,
25 resale restrictions which prohibit resellers from purchasing retail local
26 exchange services offered by a local exchange carrier to residential customers
27 and reselling those retail services to nonresidential customers, or
28 aggregating the usage of multiple customers on resold local exchange services,
29 or any other reasonable limitation on resale to the extent permitted by the
30 Federal Act. The wholesale rate of any existing retail telecommunications
31 services provided by local exchange carriers that are not exempt from Section
32 251(c) of the Federal Act (47 USC 251(c)) and that are being sold for the
33 purpose of resale, shall be the retail rate of the service less any net
34 avoided costs due to the resale. The net avoided costs shall be calculated as
35 the total of the costs that will not be incurred by the local exchange carrier
36 due to it selling the service for resale less any additional costs that will

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1 be incurred as a result of selling the service for the purpose of resale.

2 (h) Incumbent local exchange carriers shall provide CLECs, at reasonable
 3 rates, nondiscriminatory access to operator services, directory listings and
 4 assistance, and 911 service only to the extent required in the Federal Act.

5 (i) The Commission shall approve any negotiated interconnection
 6 agreement or statement of generally available terms filed pursuant to the
 7 Federal Act unless it is shown by clear and convincing evidence that the
 8 agreement or statement does not meet the minimum requirements of Section 251
 9 of the Federal Act (47 USC 251). In no event shall the Commission impose any
 10 interconnection requirements that go beyond those requirements imposed by the
 11 Federal Act or any interconnection regulations or standards promulgated under
 12 the Federal Act.

13 (j) In the event the Commission is requested to arbitrate any open
 14 issues pursuant to Section 252 of the Federal Act (47 USC 252), the parties to
 15 the arbitration proceeding shall be limited to the persons or entities
 16 negotiating the agreement.

17
 18 SECTION 10. Competing Local Exchange Carriers in Service Areas of Rural
 19 Telephone Companies.

20 (a) A rural telephone company shall not have any duty to negotiate
 21 terms and conditions of, or to enter into any agreement for the provision to
 22 any other telecommunications provider of interconnection with the rural
 23 telephone company's network as provided by Section 251(c) and Section 252 of
 24 the Federal Act (47 USC 251(c) and 252), including access to its network
 25 elements on an unbundled basis, resale of any telecommunications service that
 26 such rural telephone company provides at retail to subscribers, or physical
 27 collocation, unless and until a telecommunications provider has made a bona
 28 fide request to the rural telephone company for such services, and the
 29 Commission has determined, in accordance with the Federal Act, that the rural
 30 telephone company must fulfill such request.

31 (b) With regard to a rural telephone company that is not also a Tier One
 32 Company, the Commission may only determine that the rural telephone company
 33 must fulfill such a request if, after reasonable notice and hearing, it is
 34 established by clear and convincing evidence that

35 (1) the request is not unduly economically burdensome;

36 (2) the request is technically feasible; and

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1 (3) the request is consistent with the protection of universal
 2 service and the public interest, convenience, and necessity.

3 (c) The Commission shall not conclude that clear and convincing evidence
 4 exists, as required in paragraph (b) of this Section, unless the Commission
 5 has, among other relevant matters, concluded that granting the requested
 6 relief will not result in significant adverse impact on any of the following:

7 (1) The customers of the incumbent local exchange carrier serving
 8 the area;

9 (2) The incumbent local exchange carrier's continuing ability to
 10 provide its customers adequate service at reasonable rates;

11 (3) The incumbent local exchange carrier's ability to continue to
 12 meet eligible carrier obligations;

13 (4) Statewide average toll rates;

14 (5) Customers cost of telephone service;

15 (6) The goals of universal service;

16 (7) The quality of service provided to customers;

17 (8) The incumbent local exchange carrier's ability to attract
 18 capital and incur debt at reasonable rates and the ability to sustain
 19 sufficient revenue stream to pay existing debt;

20 (9) The ability of the exchange to support more than one local
 21 exchange carrier; and

22 (10) The interest of all ratepayers.

23 (d) If no order granting the request is entered by the Commission
 24 within 120 days after notice of such request has been filed, the request is
 25 denied.

26
 27 **SECTION 11. Regulatory Reform.**

28 (a) Regarding the earnings, rates of return, or rate base calculation of
 29 any electing company, any incumbent local exchange carrier that has filed
 30 notice in accordance with Section 12, or any competing local exchange carrier,
 31 and provided that all such companies and carriers otherwise comply with the
 32 applicable ratemaking provisions of this Act, the Commission shall not:

33 (1) require the filing of any financial report, statement, or other
 34 document for the purpose of reviewing, monitoring, or regulating rate base,
 35 earnings, or rates of return, or

36 (2) conduct any investigation of rate base, earnings, or rates of

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1 return.

2 (b) Notwithstanding the provisions of this Act, a rate group
3 reclassification of an exchange from one rate group to another occurring as a
4 result of access line growth or loss of exchange access arrangements shall be
5 allowed by the Commission on request of a local exchange carrier.

6 (c) Consistent with the policy of telecommunications competition that is
7 implemented with this Act, other than the Commission's promulgation of rules
8 and regulations required by this Act, the Commission shall promulgate no new
9 rule or regulation that increases regulatory burdens on telecommunications
10 service providers, except upon a showing that the benefits of such rule or
11 regulation are clear and demonstrable and substantially exceed the cost of
12 compliance by the affected telecommunications service providers.

13 (d) Not later than 180 days after the effective date of this Act, the
14 Commission shall conduct a rule making proceeding to identify and repeal all
15 rules and regulations relating to the provision of telecommunications service
16 which are inconsistent with, have been rendered unnecessary by, or have been
17 superseded by either this Act or the Federal Act.

18 (e) Not later than 180 days after the effective date of this Act, the
19 Commission shall revise its rules so that they apply, except as expressly
20 provided in this Act, equally to all providers of basic local exchange
21 service. All future rule changes promulgated by the Commission shall apply
22 equally to all providers of basic local exchange service.

23 (f) In order to eliminate outdated, unnecessary and burdensome laws and
24 regulations, electing companies, incumbent local exchange carriers filing
25 notice pursuant to Section 12, and competing local exchange carriers shall not
26 be subject to the requirements of Sections 23-2-304(a)(1), 23-2-304(a)(4),
27 23-2-304(a)(5), 23-2-306, 23-2-307, Sections 23-3-101 through 23-3-107, 23-3-
28 112, 23-3-114, Sections 23-3-118, 23-3-119(a)(2), 23-3-201, 23-3-206, 23-3-301
29 through 23-3-316, 23-4-101 through 23-4-104, 23-4-107, 23-4-109, 23-4-110,
30 23-4-201(d), 23-4-401 through 23-4-405, Sections 23-4-407 through 23-4-419,
31 23-17-234, or the Commission rules and regulations implementing such statutes.

32 (g) The Commission, except as provided in this Act with respect to
33 universal services, shall have no jurisdiction to regulate commercial mobile
34 services or commercial mobile service providers.

35 (h) The Commission shall establish reasonable cost proxies, which rural
36 telephone companies, excluding Tier One Companies, may use without producing

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1 company specific cost studies, when cost studies would otherwise be required.
 2 Use of these proxies or the adoption of approved rates of non rural telephone
 3 companies by rural telephone companies, excluding tier one companies, shall be
 4 deemed adequate proof of such rural telephone company costs.

5 (i) The Commission may reclassify an incumbent local exchange carrier
 6 as a tier one company or a non tier one company only upon petition by the
 7 incumbent local exchange carrier in connection with an increase or decrease in
 8 the number of the carrier's access lines in the state.

9 (j) The unauthorized change of a customer's service to another
 10 telecommunications service provider is prohibited. To protect customers from
 11 any unauthorized changes in their choice of telecommunications service
 12 providers, no local exchange carrier shall honor a request by any person other
 13 than the customer to change the provider of intrastate long distance or local
 14 exchange service to such customer in the state, except: (1) where the
 15 request is placed by a local or long distance company that has provided to the
 16 local exchange carrier a letter of agency containing clear and conspicuous
 17 disclosure of such change signed by the customer authorizing the change; (2)
 18 where the customer affected by the change calls a toll-free number
 19 (established by the company requesting the change) to confirm the request for
 20 change made in response to a contact initiated by the local exchange or long
 21 distance company requesting the change; or (3) where the Commission otherwise
 22 expressly authorizes. Any telecommunications carrier that violates the
 23 verification procedures described in this subsection and collects charges for
 24 telecommunications services from the customer shall be liable to the carrier
 25 previously selected by the customer in an amount equal to all charges paid by
 26 such subscriber after such violation in accordance with such procedures as the
 27 Commission may prescribe. The Commission is also authorized to impose civil
 28 penalties, not to exceed five thousand dollars (\$5,000.00) for any such
 29 violation.

31 SECTION 12. Optional Alternative Regulation of Non Tier One Rural
 32 Telephone Companies.

33 (a) Rural telephone companies, excluding Tier One Companies, that file
 34 notice with the Commission of an election to be regulated in accordance with
 35 the provisions of this Section are authorized to determine and account for
 36 their respective revenues and expenses, including depreciation expenses.

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